

Confiscation in Kentucky.

The Kentucky Court of Appeals in the case of Norris vs. Dimpleon, on appeal from Mason county, have decided the following points in reference to the act of Congress to confiscate the property of certain classes of Rebels.— Judge Bullit delivered the opinion of the court, in which he held that "the act under consideration is unconstitutional, because its attempts to authorize the confiscation of the property of citizens as a punishment of treason and other crimes, without due process of law by proceedings in rem in any district in which the property may be, without presentment or indictment by a Grand Jury, without arrest or summons of the owner, and upon such evidence of his guilt as would be sufficient proof of any fact, in admiralty or revenue cases.— (Constitution, article 3, section 2, sub-sec. 3 and section 3, sub sec. 1; and article 5th and 6th of Amendments.)"

"6. The clause of the Constitution which authorizes Congress 'to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water,' has no bearing on this question. It relates only to war with foreign nations.—[The Brilliant vs. United States.]"

Judge Williams delivered a separate opinion, in which he held among other things.

1. That both the Congress of the United States and State Legislatures are prohibited from passing bills of attainder; and that none but judicial attainder is known to our Constitutions, whether Federal or State.

2. That judicial attainder can only be had upon a criminal proceeding, and must be upon indictment, or other legal proceeding, with a trial and judgment, as upon an indictment.

3. That treason against the United States can only be committed by actually levying war against them, or in adhering to their enemies in time of war, giving them aid and comfort.

4. That the trial and punishment for treason has been confined by the Constitution to the courts of the country; the punishment to be prescribed by Congress, within constitutional limits.

5. That even upon judicial attainder for treason, there can be no forfeiture of real or personal estate, save for the life of the person attainted.

6. That the limitation on the power to punish for treason is a limitation on the war power as to this crime.

7. That this act of Congress of July 17, 1862, to suppress insurrection, &c., is in derogation of the personal rights, and rights of property, of the citizen, as guaranteed both in the Federal and State Constitutions.

8. That said act is not in conformity with the Federal Constitution, and is in conflict with the Constitution and laws of the States, and derogatory to their sovereignty.

9. That said act cannot be justified by the laws of nations, nor by the usages of war, as recognized by modern, civilized and Christian nations.

10. That, being in conflict with the United States Constitution, it cannot be upheld as a rule prescribed by a sovereign, in derogation of the laws of nations, but is a nullity.

HEADQ'RS, MILITARY GOVERNOR, }
ALEXANDRIA, Va., Mar. 28, 1864. }

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By command of
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Mil. Gov. Alex., Va.
JAMES COLLINS,
Surgeon and Health officer.

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